

Amendment Dated 03/30/05  
Response to Office Action Dated 12/01/04

Attorney Docket No. 001 222.000131

### REMARKS

Claims 1-3 and 5-38 are pending with this paper. Claims 12-15, 37, and 38 are withdrawn from consideration. Claims 1-11 and 36 are rejected by the Office Action. The Applicant has cancelled claim 4 with this paper. The Applicant has amended claim 1.

The Applicant thanks the Examiner for the telephonic interview on March 29, 2005. During the interview, the Examiner suggested that claim 1 would be clarified if the claim included a tag embedded in cloth.

#### Claim Rejections – 35 U.S.C. § 102

Claims 1-3, 5, 6, and 9-11 are rejected by the Office Action under 102(b) as allegedly being anticipated by US 5,930,769 (Rose). The Applicant has amended claim 1 to clarify what is being claimed. Claim 1, as amended, includes the feature of “identifying a first article of clothing and a search request by reading a tag embedded in a material of the first article of clothing.” (Emphasis added.) Referring the arguments provided by the Office Action regarding the rejection of claim 4 over Rose in view of Markman, the Office Action admits that Rose does not provide “a disclosure of using an RF tag to identify an article of clothing.” The Office Action further alleges (Page 5):

However, Markman discloses such a tag 14. It would be obvious to modify Rose with the step of reading a tag embedded in the first article of clothing; because the motivation would be to enhance through put of data.

While Markman appears to teach about an RF encoding element being embedded in a flexible packet (packet 14 which the Office Action references as “tag 14”), Markman does not even suggest embedding the RF encoding element in the material. For example (referring to Figs. 1-3), Markman merely discloses (Column 8, lines 31-62. Emphasis added.):

According to a preferred embodiment, flexible packet 14 can be attached either directly to a trackable unit of inventory or to a transport medium or package for the trackable unit. As shown in FIG. 1, flexible packet 14 can be

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attached to a coat hanger 28 on or with which a trackable unit of inventory is transported. Referring also to the embodiments shown in FIGS. 2 and 3, packet 14 can contain at least one, and preferably two apertures 16A, 36A. Aperture 16A is formed by grommet 16 and is of sufficient diameter to pass over the twisted wire end of hanger 28. Once placed on hanger 28, packet 14 remains with the item of inventory until the item is delivered to the customer. In addition, by mounting packet 14 to hanger 28 as shown, the relative position of the packets on each successive trackable unit is the same, enabling reading with an appropriately placed RF tag detector or barcode scanner, and readily found and viewed by human operators.

As shown in FIG. 2, packet 14 can be attached directly to the trackable unit of inventory 32 by means of a plastic anchor 34 such as a Dennison anchor which comprises a plastic strip having elongated ends 34A and 34B on opposite surfaces of packet 14 and at least one thickness of fabric of the trackable unit. Elongated end 34A protrudes through inventory item 32 while elongated end 34B is received by aperture 36A. Aperture 36A can be formed by snap 36 of the type having an opening or lumen through which one of the enlarged ends can be passed when attaching the anchor to the trackable unit. As shown in FIG. 3, packet 14 can contain both snap 36 and grommet 16 allowing the user to choose a method for connecting apparatus 10 to an item of inventory to be tracked.

The above teachings of Markman merely teach about an external tag that contains an RF encoding element in which the RF encoding element is embedded in the external tag that is attached to the trackable unit. Moreover, US 6,313,745 (Suzuki) appears to merely disclose tag 10 that is externally attached to an item of clothing (dangling from what appears to be a piece of string) as shown FIG. 1. The plain meaning of "embed" is "To fix firmly in a surrounding mass", "To enclose in a matrix", or "To make an integral part of." (The American Heritage Dictionary, Second College Edition, Houghton Mifflin Company.) For example, a tag may be embedded in clothing if the tag were woven in the material of the clothing so that the tag is integral to the clothing. Embedding a tag in the material rather than attaching a tag to the clothing may be advantageous because the tag is non-obtrusive to a buyer of the clothing. As amended, claim 1 is not anticipated by Rose and is not even suggested by the combination of Rose and Markman.

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Claims 2-3, 5, 6, and 9-11 ultimately depend from claim 1 and are not anticipated by Rose for at least the above reasons. The Applicant requests reconsideration of claims 1-3, 5, 6, and 9-11.

Claims 1 and 36 are rejected by the Office Action under 35 U.S.C. 102(e) as allegedly being anticipated by Suzuki. However, as discussed above, Suzuki does not teach the feature of "identifying a first article of clothing and a search request by reading a tag embedded in a material of the first article of clothing." Claim 36 depends from claim 1 and thus is not anticipated by Suzuki. Moreover, the Office Action further alleges that "RE claim 36: the trial history 70 is read as an editing the set of rules as the trial history is updated by different clothing and hence rules are changed by new habits." Suzuki does teach that "the AR engine 40 analyzes the customer's purchase and trial history 70 to better determine the customer's tastes." (Column 8, lines 58-60. Emphasis added.) However, it appears that Suzuki merely teaches AR engine 40 which analyzes trial history 70 using the rules contained in similarity analysis module 42, color analysis module 44, and analysis module 46 without changing the rules. Thus, Suzuki fails to teach the feature of "editing the set of rules based on an input from a user." (Emphasis added.)

#### **Claim Rejections – 35 U.S.C. § 103**

Claims 1, 7 and 8 are rejected by the Office Action as being unpatentable over Rose. The Office Action takes official notice that it is a "notorious well known practice of comparing an owned piece of garment to one in a store, or between the garment one holds in one's closet." However, the Office Action does not provide any discussion regarding the features of independent claim 1. As discussed above, Rose does not teach or even suggest the features of claim 1. Claims 7 and 8 depend from claim 1, and thus the Applicant requests reconsideration of claims 1, 7, and 8.

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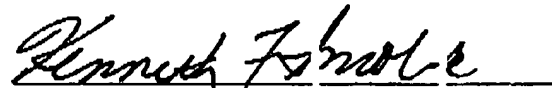
Claims 1 and 4 are rejected by the Office Action as being unpatentable over Rose in view of US 5,962,834 (Markman). However, the Office Action does not provide any discussion regarding the features of independent claim 1. As discussed above, the Applicant has included the feature of "identifying a first article of clothing and a search request by reacting a tag embedded in a material of the first article of clothing." The combination of Rose and Markman does not teach or even suggest the features of claim 1. The Applicant requests reconsideration of claim 1. The Applicant has cancelled claim 4 without prejudice.

### CONCLUSIONS

It is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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